

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

For Approval and Signature:

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2. To be referred to the Reporter or not?-No. @

[illegible]

5. Whether it is to be circulated to the Civil Judge?-No.

UNION OF INDIA

Appearance:

MR PR NANAVATI for Petitioners  
Mr.Jayant Patel, Advocate, for the 1st respondent.  
Mr.Kamal Mehta, Assistant GOVERNMENT PLEADER,  
for Respondent No. 2, 3, 4, 5

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CORAM : CHIEF JUSTICE MR. K.G.BALAKRISHNAN and  
MR.JUSTICE J.M.PANCHAL

Date of decision: 11/08/98

ORAL JUDGEMENT: (Per K.G. Balakrishnan, C.J.)

Rule returnable today. Mr.Jayant Patel waives service of Rule on behalf of respondent No.1 and Mr.Kamal Mehta, Assistant Government Pleader, waives service of rule on behalf of respondents Nos. 2, 3, 4 and 5. With the consent of the parties, the matter is finally heard today.

Petitioner No.1 Nathuram Hiralal Mali and his daughter Ms. Wasibai have filed this Special Civil Application, praying that they may be permitted to stay in India till their application for Indian citizenship is decided. The first petitioner migrated from Pakistan to India in 1979 under a valid passport. He stayed in India for a considerably long period of time and in 1984 he applied for Indian citizenship. In 1993, he applied again for Indian citizenship, but the same was not granted. On 17.1.1994, his application was returned, asking him to forward the same to the Ministry of Home Affairs through proper channel. The petitioners had applied for extension of permanent residentship. In 1996, the first petitioner was deported to Pakistan and he later came on a temporary VISA. It is alleged by the first petitioner that his wife and children are staying in India. The petitioners have submitted application for Indian citizenship and it is prayed that they may be allowed to reside in India till their application is finally decided by the Authorities.

The petition is strongly opposed by the Standing Counsel for the Central Government Shri Jayant Patel. It is submitted that the petitioners are not entitled to get Indian citizenship as they are having Pakistani citizenship. It is submitted that the first petitioner has involved himself in a criminal case and, therefore, he shall not be allowed to stay in India. The first petitioner and his other members of the family are staying in India. The first petitioner, though involved in the criminal case, was acquitted by the criminal court. He has now submitted application for citizenship

and it is for the 1st respondent to decide the same. In view of the aforeaid circumstance, we direct the first respondent to consider the application submitted by the petitioners and pass appropriate orders within a reasonable time, at least within a period of three months from the date of receipt of a copy of this judgment. Till such time, the petitioners may not be deported to Pakistan. The petitioners shall not indulge in any criminal or anti-social activities. The 1st petitioner is directed to report before the Deesa Police Station once in a fortnight. The petitioners shall not change their place of residence or leave the jurisdiction of the Deesa Police Station without the previous consent of the Police Inspector of Deesa Police Station. Rule is made absolute to the aforesaid extent.

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